

RIGHT-OF-WAY VACATION STAFF REPORT

Right-of-Way (ROW) Vacation Number V1-09

Applicant: Auburn Professional Plaza, LLC.

Property Location: Right-of-Way in the vicinity of the east portion of the alley south of 1st Street NE between North Division Street and Auburn Avenue NE.

Description of right-of-way:

This ROW consists of the east portion of the alley located south of 1st Street NE between North Division Street and Auburn Avenue NE. This portion of ROW is 1,983 square feet. It is bordered on the north side and south sides by parcels owned by private parties.

The ROW was initially dedicated to the City of Auburn through two separate plat dedications in 1887 and 1889 at no cost to the City.

Proposal:

The Applicant proposes that the City vacate a portion of the alley located south of 1st Street NE between North Division Street and Auburn Avenue NE.

Applicable Policies & Regulations:

- RCW's applicable to this situation - meets requirements of RCW 35.79.
- MUTCD standards - not affected by this proposal.
- City Code or Ordinances - meets requirements of ACC 12.48.
- Comprehensive Plan Policy - not affected.
- City Zoning Code - not affected.

Public Benefit:

- This street vacation decreases the Right-of-Way maintenance obligation of the City.
- The vacated area will be subject to property taxes.
- This will increase the economic viability for redevelopment of the downtown by increasing the lot size of the abutting properties.
- Vacation of the Right-of-Way will increase the flexibility of design and construction for the entire block.

Discussion:

The vacation application was circulated to Puget Sound Energy (PSE), Comcast, Qwest, Verizon and city staff.

1. PSE – "The review indicates that underground gas facilities as well as electric facilities are located within the area." PSE has requested that easements be reserved for gas and electric installations in the City's Street Vacation Ordinance.
2. Qwest – "Qwest has existing facilities, but the developer is paying to relocate them. Qwest has no objection to the Vacation".
3. Comcast – "does not have any facilities in the east half of the alley".

4. Verizon – “Our records indicate that there are no Verizon Communications facilities in the vicinity”.
5. Water – The water line in this alley has been abandoned.
6. Sewer – An easement will be needed for the public sewer line in the proposed area of vacation prior to it being vacated.
7. Storm – No comments
8. Transportation – No comments
9. Building – No comments
10. Fire – No comments
11. Police – No comments
12. Streets – No comments
13. Information Services – No comments
14. General Review – Any future development or building over the vacated ROW will require that the developer/owner vacate all easements and relocate all affected utilities prior to construction.

Assessed Value:

ACC 12.48 states “The city council may require as a condition of the ordinance that the city be compensated for the vacated right-of-way in an amount which does not exceed one-half the value of the right-of-way so vacated, except in the event the subject property or portions thereof were acquired at public expense or have been part of a dedicated public right-of-way for 25 years or more, compensation may be required in an amount equal to the full value of the right-of-way being vacated. The city engineer shall estimate the value of the right-of-way to be vacated based on the assessed values of comparable properties in the vicinity. If the value of the right-of-way is determined by the city engineer to be greater than \$2,000, the applicant will be required to provide the city with an appraisal by an MAI appraiser approved by the city engineer, at the expense of the applicant. The city reserves the right to have a second appraisal performed at the city’s expense.”

RCW 35.79.030 states the vacation “shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated.”

The right-of-way was acquired by two separate plat dedications on November 14, 1887 and on March 30, 1889. Per RCW 35.79.040 “If any street or alley in any city or town is vacated by the city or town council, the property within the limits so vacated shall belong to the abutting property owners, one-half to each.”

Recommendation:

Staff recommends that the street vacation be granted subject to the following conditions:

1. Easements shall be reserved for Puget Sound Energy electric and gas facilities along the entire length of the vacated ROW.
2. An easement shall be reserved for City of Auburn Sewer facilities along the entire length of the vacated ROW that would allow access for maintenance and repair and would prevent structures from being built within it.
3. In the interest of economic incentive for development of the entire block, Staff recommends that compensation for the value of the Right of Way not be required.

ORDINANCE NO. 6225

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF AUBURN, WASHINGTON, APPROVING THE
VACATION OF A PORTION OF THE ALLEY SOUTH OF
1ST STREET NE BETWEEN NORTH DIVISION STREET
AND AUBURN AVENUE NE

WHEREAS, the City of Auburn, Washington, has determined through an evaluation of its needs for streets and right-of-ways located in the vicinity of a portion of the alley south of 1st Street NE between North Division Street and Auburn Avenue NE, that a portion of City right-of-way acquired by the City through Plat Dedications on November 14, 1887 and on March 30, 1889 may no longer be needed to meet the needs of the City and that a public hearing should be set to determine if said right-of-way should be vacated; and,

WHEREAS, a request for vacation of said right-of-way was circulated to Puget Sound Energy, Qwest, Comcast, and City Departments and comments were received; and

WHEREAS, Resolution No. 4455 calling for a public hearing was approved April 6, 2009; and

WHEREAS, posting requirements of Auburn City Code 12.48.070 have been met; and

WHEREAS, a public hearing was held before the City Council on May 4, 2009; and

WHEREAS, through this process, the City has determined that it no longer needs a portion of the alley south of 1st Street NE between North Division Street and

Auburn Avenue NE, in the City of Auburn, Washington; and

WHEREAS, the property owners of the properties adjacent to the right-of-way proposed for vacation has agreed to meet certain conditions; and

WHEREAS, it is in the best interests of the City to vacate said portion of said alley right-of-way under those conditions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Vacation. That a portion of the alley located south of 1st Street NE between North Division Street and Auburn Avenue NE, located within the City of Auburn, Washington, legally described as follows:

ALL THAT PORTION OF THE 16-FOOT ALLEY ADJOINING NORTH OF LOT 1 AND THE UNPLATTED PORTION LYING EAST OF LOT 1, BLOCK 0, FIRST ADDITION TO THE TOWN OF SLAUGHTER, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 84, RECORDS OF KING COUNTY, WASHINGTON, AND ADJOINING SOUTH OF LOTS 8, 9, AND 10, BLOCK 0, L.W. BALLARD'S PARK ADDITION TO SLAUGHTER ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 91, RECORDS OF KING COUNTY, WASHINGTON.

and as shown on the document attached hereto, marked as Exhibit "A" and incorporated herein by this reference, the same is hereby vacated and the property lying in said portion of the alleyway described hereinabove, shall be returned and belong to those persons entitled to receive the property in accordance with the law, conditioned upon the following;

A. Reservation in favor of the City a perpetual Nonexclusive Easement under, over, through and across the vacated right-of-way as described above for the purpose of laying, maintaining, and installing future and existing sanitary sewer facilities, including a reservation in favor of the City of the right to grant easements for utilities over, under and on the vacated right-of-way as described above.

The City shall have the absolute right, at times as may be necessary for immediate entry upon said Easement Area for the purpose of maintenance, inspection, construction, repair or reconstruction of the above improvements without incurring any legal obligation or liability therefore.

The City shall have the absolute right to place any type of driving surface within said Easement Area deemed necessary by the City.

The owners of the adjacent property agree and shall not in any way block, restrict or impede access and egress to or from said Easement Area, and /or in any way block, restrict or impede full use of the real property within the Easement Area by the City for the above described purposes. No building, wall, rockery, fence, trees, or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of said Easement Area, without the express written consent of the City. With City permission, owners of the adjacent property may fence across said Easement Area and/or along the boundaries of said Easement Area, provided that a gate is constructed in said fence. Said gate shall be of sufficient length and location to allow the Grantee full use of and access and egress to and from the Easement Area. If said gate is to be locked, keys shall be provided to the City. No excavation shall be

made within three feet of said facilities and the surface level of the ground within the Easement Area shall be maintained at the elevation as currently existing.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties hereto.

B. Under the terms of the reservation set out in Paragraph A above, the City hereby grants a private utility easement to Puget Sound Energy over, under and upon the vacated right-of-way for the construction, operation, maintenance, repair, replacement, improvement, removal and enlargement of existing gas and electric distribution facilities. The owners of the adjacent property agree not to erect any structures on said easement and further agrees not to place trees or other obstructions on the easement that would interfere with the exercise of Grantee's rights herein.

C. It is provided, however, that such reserved or granted utility easements as set out in Paragraphs A and B, above, may be modified to accommodate a removal, relocation and siting of the affected utility lines if the City and the property owners on whose property the utility lines are located agree to the removal, relocations and siting being paid by said property owners and with the removal, relocation and siting being done in conformity with applicable standards.

Section 2. Constitutionality or Invalidity. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 3. Implementation. The mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this location.

Section 4. Recordation. The City Clerk is directed to record this Ordinance with the office of the King County Auditor.

Section 5. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



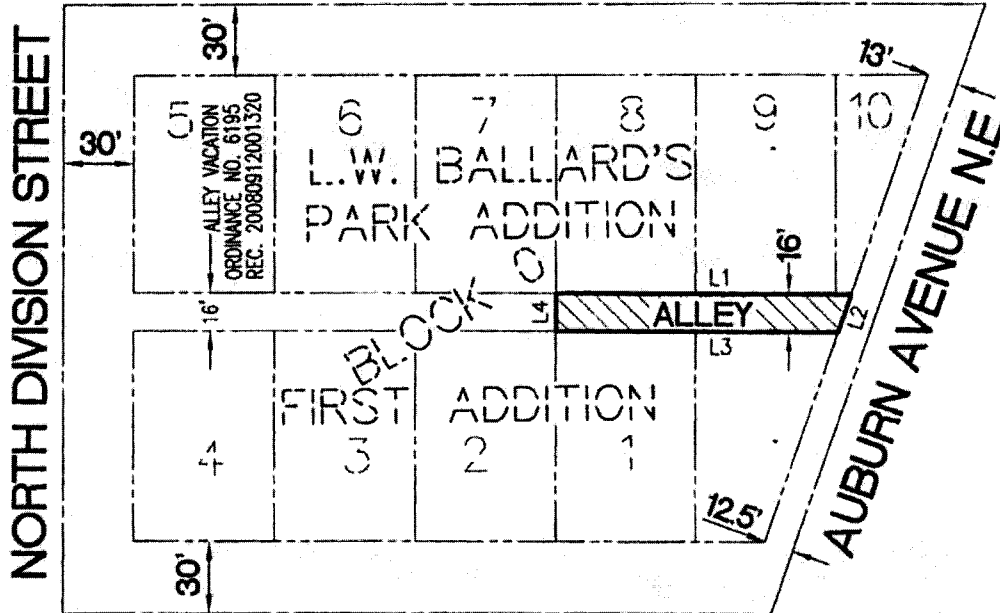
Daniel B. Heid,
City Attorney

PUBLISHED: _____

Exhibit "A"

PARTIAL VACATION OF ALLEY IN THE CITY OF AUBURN STATE OF WASHINGTON

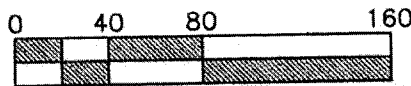
1ST STREET N.E.



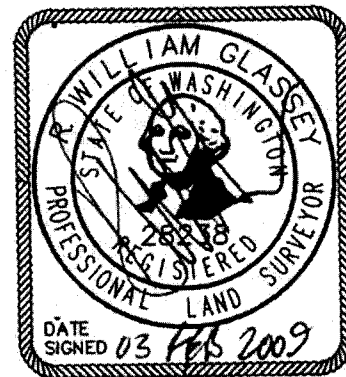
EAST MAIN STREET



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S89°04'21"E	126.72'
L2	S20°09'15"W	16.95'
L3	N89°04'21"W	121.14'
L4	N00°56'01"E	16.00'
AREA = 1,983 ± SQ. FT.		



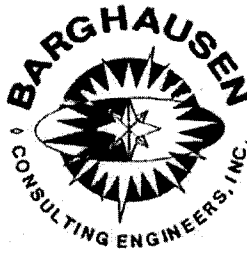
SCALE: 1"=80'



LEGAL DESCRIPTION: 13147L007.DOC
File: P:\13000s\13147\survey\13147EX04-VAC.dwg Layout: Vacation-Exhibit Date/Time: 2/3/2009 1:12 PM Scale: 1"=0' = 1'-0" KMAISON

Designed _____
Drawn KMM
Checked RWG
Approved RWG
Date 2/03/09

Scale:
Horizontal
1"=80'
Vertical
N/A



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CIVIL ENGINEERING, LAND PLANNING,
SURVEYING, ENVIRONMENTAL SERVICES

Job Number
13147

Sheet

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